

## Message Text

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PAGE 01 STATE 164140

21

ORIGIN ARA-10

INFO OCT-01 L-03 EB-07 FTC-01 JUSE-00 IO-10 CIAE-00

DODE-00 PM-03 H-02 INR-07 NSAE-00 NSC-05 PA-02 PRS-01

SP-02 SS-15 USIA-15 COME-00 TRSE-00 ISO-00 /084 R

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E.O. 11652: N/A

TAGS: PFOR, OAS, EINV, BBAK, BDIS

SUBJECT: OAS PERMANENT COUNCIL RESOLUTION ON TRANSNATIONAL  
ENTERPRISES

REF: DEPTTEL 161080

1. IN AN EXPLANATION OF VOTE ON SUBJECT RESOLUTION, U.S.  
DELEGATE MADE A STATEMENT FOR THE RECORD, THE TEXT OF  
WHICH FOLLOWS.

BEGIN TEXT. THE U.S. GIVES ITS FULL SUPPORT TO THIS  
RESOLUTION. WE GLADLY JOIN WITH THE OTHER MEMBERS OF THE  
OAS IN CONDEMNING BRIBERY AND WE ARE PREPARED TO RESUME  
EFFORTS WITHIN THE HEMISPHERE TO WORK TOWARD A CODE OF  
CONDUCT RELATING TO TRANSNATIONAL ENTERPRISES.

I WOULD LIKE TO MAKE THE OBSERVATION THAT THE CON-  
STRUCTIVE WAY THIS RESOLUTION HAS BEEN FASHIONED AUGERS  
WELL FOR THE FUTURE OF THE PERMANENT COUNCIL. WE ARE ALL  
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PAGE 02 STATE 164140

AWARE OF THE MANY HOURS OF PATIENT, CALM AND DISPASSIONATE

DISCUSSION WHICH HAS GONE INTO THE FORMULATION OF THIS RESOLUTION. I THINK THIS COUNCIL OWES A SPECIAL DEBT OF GRATITUDE TO THE DISTINGUISHED AMBASSADOR OF VENEZUELA AND TO THE OTHER SPONSORS AS WELL AS NON-SPONSORS WHO COLLABORATED IN ITS DRAFTING.

MY DELEGATION HAS GIVEN ITS SUPPORT IN THE UNDERSTANDING, WHICH I WANT TO MAKE A MATTER OF RECORD, THAT THE U.S. POSITION WITH RESPECT TO THE APPLICABILITY OF INTERNATIONAL LAW IS IN NO WAY CHANGED BY OUR SUPPORT FOR THIS RESOLUTION, AND SPECIFICALLY BY OUR ACCEPTANCE OF THE LANGUAGE RELATING TO HOST COUNTRY LAWS AND COURT JURISDICTION. THE U.S. HAS ALWAYS AGREED THAT THE ACTIVITIES OF TRANSNATIONAL ENTERPRISES SHOULD BE SUBJECT TO HOST COUNTRY LEGISLATION AND COURT JURISDICTION. IN SUPPORTING THE RESOLUTION WE REAFFIRM THIS PRINCIPLE. BUT WE HAVE NOT CHANGED OUR POSITION THAT THERE IS ANOTHER IMPORTANT PRINCIPLE THAT MUST BE RECOGNIZED IN ANY BALANCED TREATMENT OF THE PROBLEM OF TRANSNATIONALS; NAMELY, THAT HOST COUNTRIES, IN DEALING WITH TRANSNATIONAL ENTERPRISES, SHOULD RESPECT INTERNATIONAL LAW AND ACCORD EQUITABLE TREATMENT TO SUCH ENTERPRISES, AND THAT OTHER COMPETENT TRIBUNALS MAY HAVE JURISDICTION UNDER CERTAIN CONDITIONS. HERE I MUST REFER TO THE EXPLANATION OF VOTE OF THE DISTINGUISHED REPRESENTATIVE OF MEXICO, AND AFFIRM THAT WE ARE TALKING ABOUT EQUITABLE -- NOT PREFERENTIAL -- TREATMENT. (SEE FYI).

SIMILARLY, WHILE WE AGREE THAT INFORMATION EXCHANGE IS IMPORTANT, IT IS OUR UNDERSTANDING THAT THE KINDS OF INFORMATION TO BE EXCHANGED AND THE PURPOSES THAT SUCH EXCHANGE ARE DESIGNED TO SERVE REMAIN SUBJECT TO FURTHER DISCUSSION AND INTERPRETATION.

I MIGHT ADD THAT MY DELEGATION IS PLEASED WITH THE GENERAL AGREEMENT THAT THE PERMANENT COUNCIL WILL ESTABLISH PROCEDURES FOR FRANK, INFORMAL AND CONSTRUCTIVE DIALOGUE ON THIS SUBJECT. WE BELIEVE SUCH PROCEDURES ARE IMPORTANT FOR THE PROGRESS WE ALL SEEK ON THE SUBSTANTIVE ISSUES. IN CLOSING, I WOULD LIKE TO REITERATE UNCLASSIFIED

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PAGE 03 STATE 164140

OUR SUPPORT NOT ONLY FOR THE RESOLUTION BUT ALSO FOR THE CONCEPT EMBODIED IN IT OF A SERIOUS EFFORT ON THE SUBSTANCE OF THE ISSUE. END TEXT.

2. (FYI: MEXICO, IN AN EXPLANATION OF VOTE, HAD GIVEN AN EXTENDED DISQUISITION ON THE HISTORY OF AND JUSTIFICATION FOR THE CALVO DOCTRINE AS THE COUNTERBALANCE TO DEVELOPED COUNTRY INSISTENCE ON SPECIAL TREATMENT.)

END FYI. INGERSOLL

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